

REMARKS

At the time of the Office Action dated January 18, 2006, claims 1-22 and 25-39 were pending and rejected in this application. Of those claims, claims 1-22 and 29-35 have been rejected and claims 25-28 and 36-39 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Applicant acknowledges, with appreciation, the Examiner's indication that claims 23 and 24 contain allowable subject matter.

With regard to the Notice of Non-Compliant Amendment dated July 11, 2006, Applicant notes that withdrawn claims may be amended. In this regard, see the OG Notice dated July 5, 2005, entitled "Acceptance of Certain Non-Compliant Amendments Under 37 CFR 1.121(c)."

Claims 14 and 30 have been cancelled. Independent claims 1, 6, 10, 25, 29, 32, and 36 have been amended to clarify that the content is non-functional descriptive content. Applicant submits that the present Amendment does not generate any new matter issue.

With regard to the sixth enumerated paragraph of the Office Action, Applicant affirms the provisional election of claims 1-24 and 29-35 (Group I).

CLAIM 14 IS REJECTED UNDER THE FIRST PARAGRAPH OF 35 U.S.C. § 112

Although Applicant disagrees with the Examiner's assertion that the subject matter recited in claim 14 is not enabled by Applicant's disclosure, Applicant notes that claim 14 has

been cancelled. Therefore, the rejection of claim 14 under the first paragraph of 35 U.S.C. § 112 is moot.

**CLAIMS 1-15, 19-20, AND 29-35 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING
ANTICIPATED BY SNYDER ET AL., U.S. PATENT NO. 6,070,171 (HEREINAFTER SNYDER)**

On pages 4 and 5 of the Office Action, the Examiner asserted that Snyder discloses the claimed invention. This rejection is respectfully traversed.

The independent claims have been amended to clarify that the claimed content is non-functional descriptive content. As noted on page 6 of Applicant's disclosure:

In general, functional descriptive computer readable content may include a program such as Netscape Communicator®, Lotus 1-2-3®, or Microsoft Word®, for example and generally describes any computer readable instructions which cause a processor circuit to carry out some designated functionality. Non-functional descriptive computer readable content may include music, video, or graphic content, for example and generally describes any computer readable content defining information.

Thus, Applicant has distinguished functional descriptive computer readable content (e.g., software programs) from non-functional descriptive computer readable content (i.e., media such as "music, video, or graphic content"). The content described by Snyder is software. Thus, Snyder fails to identically disclose the claimed invention within the meaning of 35 U.S.C. § 102. Applicant, therefore, respectfully solicits withdrawal of the imposed rejection of claims 1-13, 15, 19-20, and 29-35 under 35 U.S.C. § 102 for anticipation based upon Snyder.

**CLAIMS 1-11, 16-20, AND 29-35 ARE REJECTED UNDER 35 U.S.C. § 102 AS BEING
ANTICIPATED BY COLVIN, U.S. PATENT PUBLICATION NO. 2004/0225900**

On page 5 of the Office Action, the Examiner asserted that Colvin discloses the claimed invention. This rejection is respectfully traversed.

As already noted above, the independent claims have been amended to clarify that the content is non-functional descriptive content. The content described by Colvin is software, which is not non-functional descriptive content, as claimed. Thus, Colvin fails to identically disclose the claimed invention within the meaning of 35 U.S.C. § 102. Applicant, therefore, respectfully solicits withdrawal of the imposed rejection of claims 1-11, 16-20, and 29-35 under 35 U.S.C. § 102 for anticipation based upon Snyder.

CLAIMS 16 AND 17 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON SNYDER, IN VIEW OF PEINADO ET AL., U.S. PATENT PUBLICATION NO. 2003/0078853 (HEREINAFTER PEINADO)

On page 6 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Snyder in view of Peinado to arrive at the claimed invention. This rejection is respectfully traversed.

Claims 16 and 17 depend from independent claim 10, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 10 under 35 U.S.C. § 102 for anticipation based upon Snyder. Specifically, Snyder neither discloses nor suggests that the content is non-functional descriptive content. The Examiner's secondary reference of Peinado does not cure the argued deficiencies of Snyder. Accordingly, the claimed invention would not result from the combination of Snyder and Peinado. Applicant, therefore, respectfully submits that the imposed rejection of claims 16 and 17 under 35 U.S.C. § 103 for obviousness based upon Snyder in view of Peinado is not viable and, hence, solicits withdrawal thereof.

CLAIM 18 IS REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON SNYDER,
IN VIEW OF PEINADO AND STORY ET AL., U.S. PATENT PUBLICATION NO. 2002/0046181
(HEREINAFTER STORY)

On pages 6 and 7 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Snyder in view of Peinado and Story to arrive at the claimed invention. This rejection is respectfully traversed.

Claim 18 depends from independent claim 10, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 10 under 35 U.S.C. § 102 for anticipation based upon Snyder. Specifically, Snyder neither discloses nor suggests that the content is non-functional descriptive content. The Examiner's secondary references of Peinado and Story do not cure the argued deficiencies of Snyder. Accordingly, the claimed invention would not result from the combination of Snyder, Peinado, and Story. Applicant, therefore, respectfully submits that the imposed rejection of claim 18 under 35 U.S.C. § 103 for obviousness based upon Snyder in view of Peinado and Story is not viable and, hence, solicits withdrawal thereof.

CLAIM 21 IS REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON SNYDER,
IN VIEW OF BULLEN, U.S. PATENT NO. 5,946,677

On page 7 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Snyder in view of Bullen to arrive at the claimed invention. This rejection is respectfully traversed.

Claim 21 depends from independent claim 10, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 10 under 35 U.S.C. § 102 for anticipation based upon Snyder. Specifically, Snyder neither discloses nor suggests that the content is non-functional descriptive content. The Examiner's secondary reference of Bullen does not cure the argued deficiencies of Snyder. Accordingly, the claimed invention would not result from the combination of Snyder and Bullen. Applicant, therefore, respectfully submits that the imposed rejection of claim 21 under 35 U.S.C. § 103 for obviousness based upon Snyder in view of Bullen is not viable and, hence, solicits withdrawal thereof.

**CLAIM 22 IS REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON SNYDER,
IN VIEW OF BULLEN AND TOMAT ET AL., U.S. PATENT NO. 6,784,925 (HEREINAFTER TOMAT)**

On pages 7 and 8 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Snyder in view of Bullen and Tomat to arrive at the claimed invention. This rejection is respectfully traversed.

Claim 22 depends from independent claim 10, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 10 under 35 U.S.C. § 102 for anticipation based upon Snyder. Specifically, Snyder neither discloses nor suggests that the content is non-functional descriptive content. The Examiner's secondary references of Bullen and Tomat do not cure the argued deficiencies of Snyder. Accordingly, the claimed invention would not result from the combination of Snyder, Bullen, and Tomat. Applicant, therefore, respectfully submits that the imposed rejection of claim 22 under 35 U.S.C. § 103 for obviousness based upon Snyder in view of Bullen and Tomat is not viable and, hence, solicits withdrawal thereof.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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